

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Boaz *et al.*
Application No. : 10/071,155
Filed : February 7, 2002
For : Real Time Relevancy Determination System and a Method for
Calculating Relevancy of Real Time Information

Examiner : Greta L. Robinson
Art Unit : 2168
Docket No. : 68393-23
Date : March 21, 2007

Response to Notice of Non-Compliant Amendment

Dear Sir:

In response to the Notice of Non-Compliant Amendment ("Notice") dated March 9, 2007, to which this response to being timely filed, Applicants respectfully request entry of the Amendment, dated January 5, 2007, in view of the statements made herein.

According to the Notice, the Amendment was considered non-compliant because it failed to meet the requirements of 37 C.F.R. 1.121 or 1.4. More particularly, the Examiner objected to amendments made to non-elected claims.

On March 13, 2007, and March 19, 2007, Applicants' counsel discussed the Notice with Examiner Greta Robinson. On March 13, 2007, Examiner Robinson stated that non-elected claims cannot be amended after an election has been made and cited C.F.R. §1.142(b). Counsel disagreed and drew Examiner's attention to rejoinder practice as delineated in the Manual of Patent Examining Procedure, specifically, M.P.E.P. §821.04. On March 19, 2007, Examiner appeared to agree with Counsel that amendments may be made to non-elected claims and requested Counsel to submit a formal response to the Notice.

In response to the Notice of Non-Compliant Amendment, Applicants respectfully disagree with Examiner's statements made therein; that is, amendments may not be made to non-elected claims. The Manual of Patent Examining Procedure §821.04, in pertinent part, states:

...where restriction was required between a product and a process of making and/or using the product, and the product invention was elected and subsequently found allowable, all claims to non-elected process invention must depend from or otherwise require all the limitations of an allowable claim for the claims directed to that process invention to be eligible for rejoinder. [] In order to retain the right to rejoinder, *applicant is advised that the claims to the nonelected invention(s) should be amended during prosecution to require the limitations of the elected invention...*"

Emphasis added. See also M.P.E.P. §821.04(b).

A Restriction Requirement was issued on June 7, 2006, and an Election was made on June 28, 2006, wherein Applicants elected the group of claims drawn to a relevancy determination unit and system (i.e., product claims). Claims drawn to a method of determining relevancy (i.e., process claims) were withdrawn and amended to include the limitations of an elected product claim. The amendments are permissible pursuant to M.P.E.P. §§821.04 and 821.04(b).

In light of the aforementioned remarks, Applicants respectfully request withdrawal of the objection to amending non-elected claims and entry of the Amendment dated January 5, 2007.

For the Examiner's ease of reference, a copy of the listing of claims *as previously submitted* in the Amendment dated January 5, 2007, is also attached.

The Examiner is invited to contact the undersigned at (213) 633-6800 if there are any questions regarding this application.

Respectfully submitted,

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Attachments: Copy of Notice of Non-Compliant Amendment
dated March 9, 2007
Copy of Listing of Claims *previously submitted*
on January 5, 2007

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